



22 SEP 2009

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UNITED STATES

In re Application of: KOCHALE, Axel	:	DECISION
Application No.: 10/590,555	:	
PCT Application No.: PCT/EP05/02070	:	ON PETITION
Int. Filing Date: 26 February 2005	:	
Priority Date: 09 March 2004	:	UNDER
Attorney Docket No.: PD040028	:	
For: ARRANGEMENT FOR ADAPTIVE BIT		37 CFR 1.137(b)
RECOVERY		

Applicant's "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR §1.137(b)" filed in the United States Patent and Trademark Office (PTO) on 27 August 2009 is **GRANTED**.

### **BACKGROUND**

On 26 February 2005, applicant filed international application PCT/EP05/02070. This international application claims a priority date from EPO 04005528.7 of 09 March 2004 and designates the United States. The deadline for entry into the United States National Stage was thirty months from this priority date, that is 09 September 2006. On 24 August 2006, applicant filed national stage papers in the United States Designated/ Elected Office (DO/EO/US) including the requisite basic national fee. On 25 May 2007, the DO/EO/US mailed a Notification of Missing Requirements (Form PCT/DO/EO/905). On 03 March 2008, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909).

On 27 August 2009, applicant filed the instant petition for revival under 37 CFR 1.137(b).

### **DISCUSSION**

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b)

must be accompanied by (1) a proper reply, (2) the petition fee required by law (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

The submission of the executed declarations satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). Applicant's statement in the petition that "The entire delay in filing the required reply from the due date for the required reply, until the filing of the grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

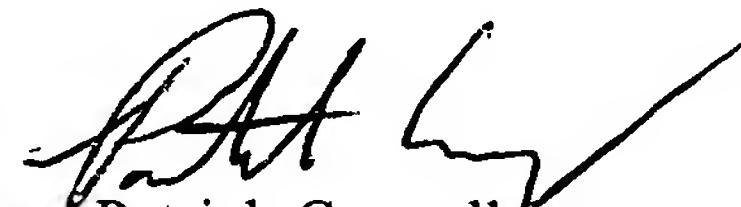
### CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application has an international filing date of 26 February 2005 under 35 U.S.C. 363 and a date of **27 August 2009** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.



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